

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

DAVE BYRD,

PLAINTIFF,

VS.

SLINGCO, LLC,
SLINGCO LIMITED,

DEFENDANTS.

2007 NOV 27 P 3:39

DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

CASE ACTION NO.:

1:07CV1046 WC

DEMAND FOR JURY TRIAL

COMPLAINT

(1) That the Plaintiff, Dave Byrd, is a resident of Dale County, Alabama and is over the age of nineteen (19) years.

(2) That the Defendant, Slingco, LLC, is a Georgia limited liability company that does business in Dale County, Alabama and it has over twenty (20) employees.

(3) That the Defendant, Slingco Limited, is a foreign company that does business in Dale County, Alabama and it has over twenty (20) employees.

(4) This action is brought pursuant to Title VII of the Civil Rights Act of 1964 for employment discrimination and the Age Discrimination Employment Act of 1967. Jurisdiction is specifically conferred on the Court by 42 U.S.C. §2000e-5. Equitable and other relief are also sought under the Age Discrimination Employment Act of 1967.

Employment Discrimination Claims

(5) The acts of the Defendants that Plaintiff complains of in this suit concern the failure of the Defendants to hire or renew the Plaintiff's employment with the Defendant, Slingco, LLC, and the Defendant, Slingco Limited, on or about January 5, 2007.

(6) On or about January 5, 2007, the Plaintiff, Dave Byrd, was not hired by Slingco, LLC and Slingco Limited because of his age, which was seventy-one (71) years old at that time.

(7) The Defendants', Slingco, LLC and Slingco Limited, conduct was discriminatory with respect to my age.

(8) The Defendants, Slingco, LLC and Slingco Limited discriminated against me as a result of the following facts:

The Plaintiff is a white male who is seventy one (71) years old. The Plaintiff was employed as a sales agent for the Defendants prior to January 5, 2007. The Defendants discriminated against the Plaintiff in the renegotiation of his employment contract based on his age. Specifically, the Defendants would not renegotiate my employment contract for a ten (10) year term because of my age. I had been doing a good job for the Defendants with no complaints by them concerning my job performance. Therefore, the Defendants did not renew my employment contract in order to either hire another younger sales person or to get rid of me because of my age.

(9) The above described illegal activity took place in Dale County, Alabama.

(10) The Plaintiff filed his charges with the Equal Employment Opportunity Commission regarding Defendants' discriminatory conduct on or about June 8, 2007. Attached is a copy of the Plaintiff's Notice-of-Right-to-Sue letter issued by the Equal Employment Opportunity Commission on August 29, 2007.

WHEREFORE, based on the foregoing, the Plaintiff, Dave Byrd, seeks the following relief: recovery of back pay; reinstatement to his former job; and any other relief that may be appropriate, including injunctive orders, damages, costs and attorney's fees.

This the 27th day of November, 2007.



D. Lewis Terry, Jr. (TER010)
Attorney for the Plaintiff,
Dave Byrd

PLAINTIFF DEMANDS TRIAL BY A STRUCK JURY ON ALL CLAIMS



D. Lewis Terry, Jr.

OF COUNSEL:

SHERRER, JONES & TERRY, P.C.
335 West Main Street
Dothan, Alabama 36301
(334) 678-0100
FAX (334) 678-0900
E-mail – lewis@sjt-law.com

Serve Defendants with Summons and Complaint by Certified Mail at:

Slingco, LLC
Richard P. Lindsey, registered agent
400 Westpark Court, Suite 220
Peachtree City, Georgia 30269

Slingco Limited
180 Walter Way, Suite 106
Fayetteville, Georgia 30214

EEOC Form 161 (3/98)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Dave Byrd**
5732 County Road 11
Ozark, AL 36360

From: **Birmingham District Office**
Ridge Park Place
1130 22nd Street, South
Birmingham, AL 35205



On behalf of person(s) aggrieved whose identity is
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

420-2007-03301

Aaron N. Hallaway,
Investigator

(205) 212-2123

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.



While reasonable efforts were made to locate you, we were not able to do so.



You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

No employer/employee relationship exist (independent contractor)**- NOTICE OF SUIT RIGHTS -**

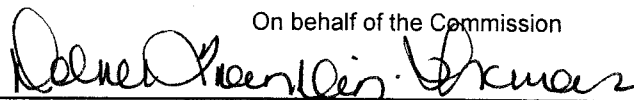
(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

Enclosures(s)

On behalf of the Commission



Delner Franklin-Thomas,
District Director



(Date Mailed)

cc: **SLINGO, LLC**
180 Walter Way
Suite 106
Fayetteville, GA 30214

Court Name: U S DISTRICT COURT - AL/M
Division: 2
Receipt Number: 4602001281
Cashier ID: cstrecke
Transaction Date: 11/27/2007
Payer Name: SHERRER JONES AND TERRY PC

CIVIL FILING FEE
For: SHERRER JONES AND TERRY PC
Case/Party: D-ALM-1-07-CV-001046-001
Amount: \$350.00

CHECK
Remitter: SHERRER JONES AND TERRY PC
Check/Money Order Num: 3007
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

DALM107CV001046-WC

SHERRER JONES AND TERRY PC

335 WEST MAIN STREET

DOTHAN, AL 36301

BYRD V SLINGCO INC ET AL